

Standard Local Operating Procedures for Endangered Species
Scrub-jays

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USFWS South Florida Ecological Services Office

The Standard Local Operating Procedures for Endangered Species (SLOPES), Scrub-jays, provides a tool to assist the user in determining if an action, *i.e.*, a Federal permit, a Federal construction project, or other such action, may adversely affect scrub-jays. The Scrub-jay SLOPES provide the user with a stepwise process to determine if the proposed action will affect jays, what effect will the action have on scrub-jays, and options available that may avoid or minimize the action's effects to scrub-jays.

The Fish and Wildlife Service (Service) encourages Federal agencies to use the Florida Fish and Wildlife Conservation Commission's (FWC) 1991 publication, *Ecology and Development-Related Habitat Requirements of the Florida Scrub Jay* for any on-site preservation, enhancement, or management actions they propose that may have an effect on scrub-jays. This publication, *i.e.*, the FWC Scrub-jay Habitat Guide, provides information on scrub-jay survey protocols, habitat needs, territory sizes, and species biology. In addition, the *South Florida Multi-Species Recovery Plan, Volume I: The Species* (Service 1999) provides a synopsis of scrub-jay ecology.

The Service has also provided guidance for off-site mitigation needs for occupied habitat losses for Incidental Take Permits under section 10 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*) (Service 1999). The Incidental Take Permit guidance delineates mitigation service areas throughout the range of the species and also recommends mitigation strategies to offset resource effects. The Service also views this guidance as also being applicable to section 7 consultations as a tool to minimize adverse effects to scrub-jays from the proposed Federal action.

Scrub-jay SLOPES Flowchart Guide (see Figure 1)

As with the "SLOPES Process" flowchart, the first step is to require project specific information, which generally includes a project description, habitat maps, project location, and county. On the project maps, determine the boundaries of the project and

a 600 foot buffer surrounding the property. The reason for the 600-foot radius is that the FWC Scrub-jay Habitat Guide identifies a typical scrub-jay territory as an area of approximately 25 acres. To identify off-site territories that may overlap onto the property, the Service determined the center point of a 25-acre circular territory as the furthest point that would allow for overlap of an off-site territory onto the property.

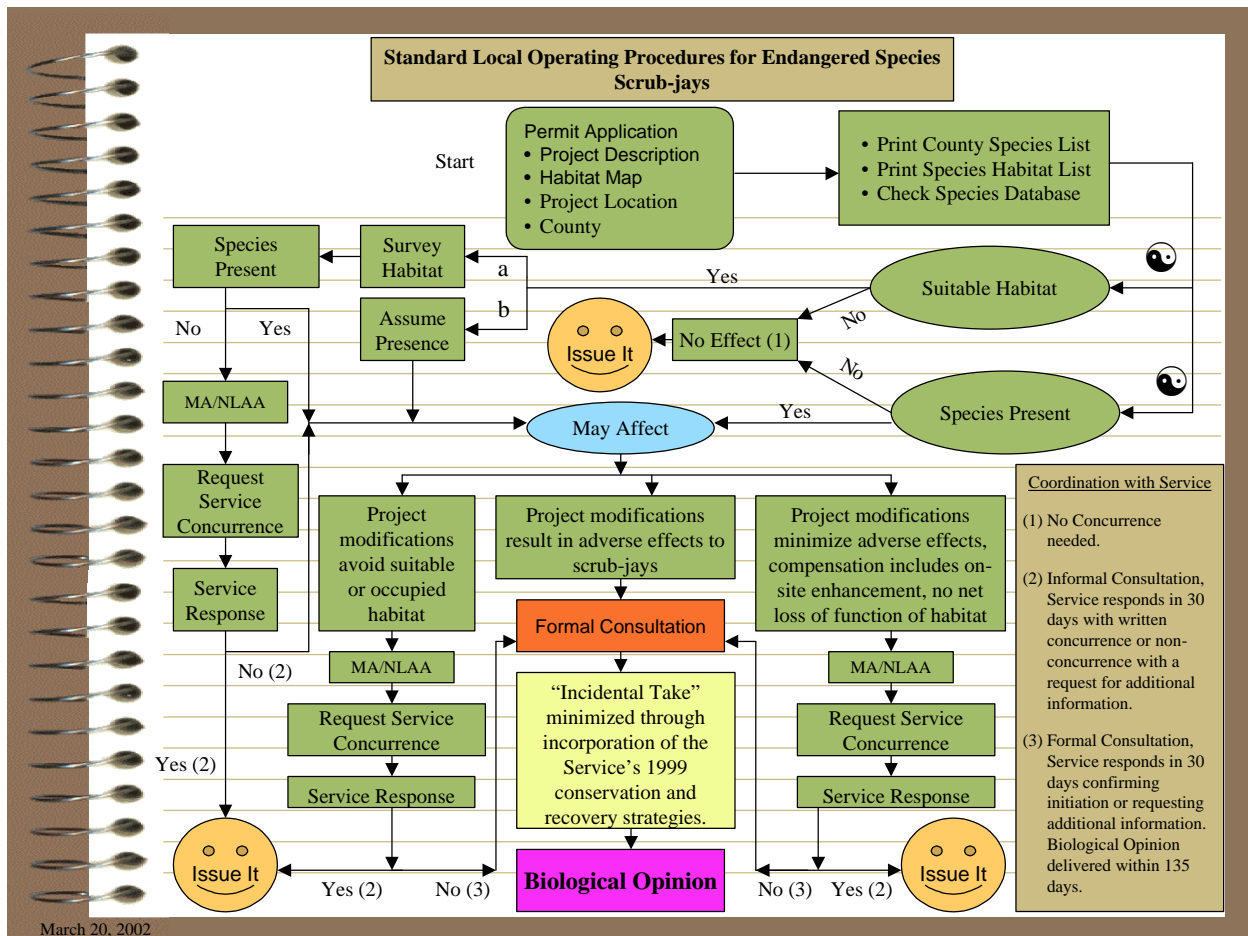


Figure 1. Scrub-jay SLOPES Flowchart Guide.

The next step is to map the vegetative communities present on the property and in the property buffer area using one of the community profile guides referenced in the "SLOPES Process" narrative. Also reviewing scrub-jay occurrence records available from the Florida Natural Areas Inventory databases or databases maintained by the Service or other organizations,

provides the basis for the first yes/no decision point in the flowchart.

Suitable Habitat/Species Present - Yes/No

The Scrub-jay flowchart provides yes/no options for presence or absence of scrub-jays or suitable habitat. If no occurrence records are present in the databases and no suitable habitat is present, then the Corps may make the determination that the project will have "no effect" on scrub-jays and can proceed with the Federal action. If desired, the Corps can request a concurrence letter from the Service.

If suitable habitat is present, the Service assumes that suitable habitat within the species' historic range still supports listed species and a "may affect" determination is appropriate. In the scrub-jay flowchart, two options are available to assess suitable habitat issues. The first option (option a) provides for the use of species-specific surveys of the property to determine the presence or presumed absence of scrub-jays in suitable habitat. The second option (option b) assumes that suitable habitat supports scrub-jays.

Scrub-jay Survey Protocol - Option a

The Service's survey protocol requires five consecutive days as the minimum length of survey effort necessary. The survey protocol is time-of-day specific and time-of-year specific. The time-of-day requirements are one hour after sunrise and ending by mid-day or when local weather conditions become unfavorable (see protocol for specific of weather conditions). The time-of-year specifics are spring (March), fall (September and October), or midsummer (July). Surveys outside of these time frames are inconclusive. In most applications, a one time survey event within the preferred time-of-year restrictions is sufficient for Service consultations.

The scrub-jay survey protocols are the minimum levels of effort the Service believes are necessary to determine the presence or absence of this species on the project and in the project area. A note of importance, with species presence on the property, is that suitable habitats on the property may not be the nest sites of the scrub-jays, but could be part of the scrub-jays foraging

habitat, which is considered by the Service as occupied, because the habitat fulfills the species life history needs.

Scrub-jays Not Present

If the surveys do not detect the presence of scrub-jays, then a "may affect, not likely to adversely affect" determination may be reached. To receive concurrence with this determination from the Service, supporting data documenting the level of survey effort in the suitable habitat must be provided, as well as the project description, the project area habitat map, the text descriptions of these habitats, and the reason for the determination, i.e., site-specific surveys of suitable habitats did not detect scrub-jays. This information must be documented in the Scrub-jay Management Plan.

However, if site alterations do not begin prior to the next year's nesting season, then a follow-up survey is required prior to construction. If scrub-jays are observed, then reinitiation of consultation with the Service is required.

Scrub-jays Present - May Affect

In the flowchart, option b allows for the assumption that suitable habitat supports scrub-jays. The flowchart also provides for projects where scrub-jays are known to be present on the property. In both of these scenarios, the Corps is advised that a "may affect" determination is warranted and additional measures are necessary to minimize adverse effects to scrub-jays.

Habitat Avoidance

The first measure recommended by the Service is to modify the project footprint to avoid direct impacts to scrub-jay habitat. The Service also recommends that the habitat be designated as an environmentally sensitive area and set aside by deed restriction, easement, or other protective covenant. If the occupied habitat exceeds 5 acres, then a habitat management plan is also recommended. The incorporation of these recommendations into the project design and documented in a Scrub-jay Habitat Management Plan would allow the Corps to make the determination that the project "may affect, but is not likely to adversely affect" listed species and request concurrence from the Service.

Upon receipt of the concurrence request and the supporting data, the Service could provide concurrence with the "may affect, but is not likely to adversely affect" determination.

On-site Habitat Enhancement

This measure is recommended by the Service in situations where a project proposes to impact the occupied scrub-jay habitat. However, surveys of the habitat have noted that the habitat has been physically altered by exotic species invasion, lack of fire, or other anthropogenic actions. These alterations have produced habitat conditions on-site, which have resulted in marginally suitable habitat for the survival and propagation of scrub-jays. The planned action, through project redesign, has avoided impacting a substantial portion of the scrub habitat, however some habitat loss will still occur. The project proposes on-site habitat enhancements and management actions that provide habitat quality improvements that balance losses of small amounts of marginally suitable habitat on-site. The incorporation of these recommendations into the project and documented in a Scrub-jay Management Plan would allow the Corps to make the determination that the project "may affect, but is not likely to adversely affect" listed species and request concurrence from the Service. Upon receipt of the concurrence request and the supporting data, the Service could provide concurrence with the "may affect, but is not likely to adversely affect" determination. The management plan, in this scenario, also needs a monitoring program to document the success of the enhancement actions.

"Incidental Take" Likely

The remaining measures available to minimize "adverse effects" to scrub-jays are those associated with projects where on-site habitat avoidance, preservation, or enhancement are insufficient in minimizing "adverse effects" or are not appropriate and "incidental take" of scrub-jays is likely. The Service recommends that occupied scrub habitat be avoided and preserved. However, if the amount of habitat on-site and in the adjacent off-site buffer is not sufficient to support a scrub-jay family, then "incidental take" of the scrub-jay family is likely. Sufficient habitat for this evaluation is 25 acres of suitable habitat, which is the average size of a scrub-jay territory.

Since "incidental take" is the outcome of this scenario, formal consultation is necessary and the Service will prepare a Biological Opinion. The Biological Opinion will include the amount of "incidental take" anticipated and the non-discretionary reasonable and prudent measures and terms and condition that are appropriate for the project.

To assist the Corps in minimizing "adverse effects" from anticipated "incidental take," the Service has developed species-specific measures that are applicable to projects where compensation for "adverse effects" is appropriate. These species-specific measures further the Service's goals for conservation and recovery of the species. The measures were originally developed by the Service (1999) to address minimization and mitigation needs for "Incidental Take Permits" under section 10 of the ESA. The measures identified scrub-jay metapopulation territories where conservation and recovery goals for the species can be achieved. These goals can be achieved either through efforts to expand the boundaries of existing preserves or through efforts to protect and manage occupied and unoccupied habitats, which are contiguous to the preserved lands or are within unobstructed scrub-jay dispersal distances (not to exceed 5 miles) from the preserved lands.

The measures developed are primarily acquisition and management functions. The acquisition ratios are a minimum of 2 acres of occupied habitat for each acre of affected occupied habitat, or a minimum of 3 acres of unoccupied habitat for each acre of affected occupied habitat. The unoccupied habitat acquisition requires a restoration component, as well. The specifics of each of these measures are in the Service's 1999 correspondence and should be incorporated into the Scrub-jay Management Plan and submitted as part of the data needs for the Biological Opinion.

As discussed in the SLOPES Process narrative and on each of the flowcharts, formal consultation, which concludes with the Service's Biological Opinion, generally requires up to 135 days. However, incorporation of the minimization recommendations into the project and provided to the Service in the Scrub-jay Management Plan can expedite the consultation process.

References

Florida Fish and Wildlife Commission. 1991. Ecology and Development-Related Habitat Requirements of the Florida Scrub Jay. Fitzpatrick, J.W., G. E. Woolfenden, and M. T. Kopeny. Florida Game and Fresh Water Fish Commission, Nongame Wildlife Program, Technical Report Number 8. 49pp.

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U.S. Fish and Wildlife Service. 1999. South Florida multi-species recovery plan. U.S. Fish and Wildlife, Southeast Region, Atlanta GA.